

REMARKS

Claims 1-48 are currently pending in the application. By this amendment, claims 7-35 are withdrawn. Applicants elect Species 1, claims 1-6, with traverse. Claim 1i is a generic claim.

The Examiner has provided a 21-way Election of Species Requirement. The Examiner is of the opinion that each one of these Species are patentably distinct. Although Applicant agrees that each of the species are patentably distinct, Applicants are of the opinion that the examination of each of these Species would not unduly burden the Examiner. By way of example,

1. Species 1 is directed to sublithographic features which are substantially vertical columns;
2. Species 6 is directed to sublithographic features which are substantially vertical pores;
3. Species 12 is directed to sublithographic features which include a plurality of holes;
4. Species 14 is directed to sublithographic features which include vertical columns and vertical holes; and
5. Species 20 is a sublithographic template mask with a random hole pattern.

It is the opinion of Applicant that the examination of any one of the above species would, by its nature, include an examination of any remaining of these species. By way of illustration, the search and examination of Species 1, directed to vertical columns, would include the search and examination of Species 14, directed to vertical columns and a plurality of holes. This same reasoning is applicable for many of the remaining species such as, for example, Species 5 and 19.

It is further submitted that some of the Species, albeit in different combinations, include similar features. For example, Species 1, claim 6 includes the recitation of a plurality of holes. Similarly, Species 12, is also directed to a plurality of holes.

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Applicants further submit that many of the species are interrelated, albeit distinct, which would necessitate the requirement for a search and examination of one species to include the search and examination of another species. For example, the search and examination of backfilling of the sublithographic features with insulation would include a search and examination of backfilling the sublithographic features with another material.

Thus, according to MPEP §803 “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions” (emphasis added). It is respectfully submitted that the subject matter of claims 1-35 are sufficiently related that a thorough search of the subject matter of any one group of claims would necessarily encompass a search for the subject matter of the remaining claims. Thus, Applicants respectfully submit that the policy of MPEP §803 should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicate examination by the Patent Office.

Considering these factors and the above specific examples, it is respectfully submitted that the Election of Species Requirement is improper since (i), there is no serious burden imposed on the Examiner and (ii) the Applicants are seriously burdened which outweighs any burden that may be imposed on the Examiner . Accordingly, Applicants request withdrawal of the Election of Species Requirement.

Applicants request examination on the merits. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed.

Respectfully submitted,
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